

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7113

BILL NUMBER: HB 1332

NOTE PREPARED: Feb 2, 2006

BILL AMENDED: Jan 30, 2006

SUBJECT: Alternative Fuel Production and Use.

FIRST AUTHOR: Rep. Friend

FIRST SPONSOR: Sen. Weatherwax

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production. The bill specifies the maximum amount of a credit that a taxpayer may claim based upon the amount of biodiesel, blended biodiesel, or ethanol produced by the taxpayer.

The bill prohibits the Air Pollution Control Board from adopting rules regulating emissions from outdoor furnaces and boilers.

Effective Date: (Amended) Upon Passage; January 1, 2005 (retroactive); January 1, 2006 (retroactive).

Explanation of State Expenditures: (Revised) *Air Pollution Control Board:* The bill prohibits the Air Pollution Control Board from adopting rules regulating emissions from an outdoor furnace or boiler. The bill defines an "outdoor furnace or boiler" as a device that: (1) is located outside a residence or other building of 20,000 square feet or less of floor space; (2) uses wood as a primary fuel to heat air or water; and (3) pumps the heated air or water back into the residence or other building for heating purposes.

On December 1, 2005, the Air Pollution Control Board issued its first notice of comment period on a proposal to develop new rules concerning regulations of emissions from outdoor furnaces and outdoor boilers. This comment period ended on January 3, 2006. The Board has since issued a continuation of this comment period to end March 3, 2006.

Explanation of State Revenues: *Biodiesel/Ethanol Tax Credits:* The bill makes changes to existing tax credits

for production of ethanol, biodiesel, and blended biodiesel, and for retail sales of blended biodiesel. The changes are as follows:

(1) The bill increases the aggregate credit limit from \$20 M to \$50 M for the ethanol production, biodiesel production, and blended biodiesel production credits. The new aggregate limit would apply to all credits provided after December 31, 2004.

(2) The bill specifies new maximum credits based on production levels for the ethanol, biodiesel, and blended biodiesel production credits. Under current statute, the maximum credit for each is \$3 M, and the IEDC may raise the maximum to \$5 M for the ethanol and biodiesel production credits, but not for the blended biodiesel production credit. The new maximum credit amounts and applicable production levels for the ethanol production credit, and for the biodiesel and blended biodiesel production credits, are presented in the table below.

| Ethanol Production Credit | |
|--|--|
| Maximum Credit | Annual Production Level |
| \$2 M | At least 40 M gallons, but less than 60 M gallons. |
| \$3 M | At least 60 M gallons. |
| Biodiesel and Blended Biodiesel Credits | |
| Maximum Credit | Annual Production Level |
| \$1 M | Less than 30 M gallons. |
| \$2 M | At least 30 M gallons, but less than 60 M gallons. |
| \$3 M | At least 60 M gallons. |

The amount of additional credits that may be claimed due to the changes in (1) and (2) above is indeterminable and depends on IEDC certification of companies for the production credits, and the production levels achieved at production facilities. The IEDC certified \$12 M in ethanol production credits in 2005 for four companies, with each company receiving \$3 M in credits. No more ethanol production credits may be certified under current statute. The IEDC has not certified any credits for biodiesel or blended biodiesel production.

(3) The bill moves the sunset date for the blended biodiesel retail sales credit from December 31, 2006, to December 31, 2010. The bill also eliminates the \$1 M credit limit applicable to all taxpayers and all taxable years. The additional credits that might be claimed due both to extending the time frame of the credit and eliminating the credit limit is indeterminable and depends on IEDC certification of sales credits. In 2005, the IEDC did not certify any credits for the retail sale of blended biodiesel.

Background: Current statute provides credits against a taxpayer's Sales and Use Tax, AGI Tax, Financial Institutions Tax, or Insurance Premiums Tax liability for the production of biodiesel, blended biodiesel, and ethanol, and for the retail sale of blended biodiesel. The tax credits are: (1) \$1.00 for each gallon of biodiesel manufactured in Indiana and used to produce blended biodiesel; (2) \$0.02 per gallon of blended

biodiesel produced in Indiana using biodiesel produced in Indiana; (3) \$0.125 per gallon of ethanol produced at an eligible facility in Indiana; and (4) \$0.01 per gallon of blended biodiesel sold by Indiana retailers.

Current statute limits the ethanol, biodiesel, and blended biodiesel production credits combined to \$20 M for all taxpayers and all taxable years. Within this overall limit, the credits certified by the IEDC must total at least \$4 M for each credit. Thus, no new credits for ethanol production can be approved under the current limits, as the IEDC certified \$12 M in ethanol production credits in 2005 (\$3 M each to four companies). In addition, the taxpayer limit for each credit is \$3 M, with provision for the IEDC to increase this limit to \$5 M for the ethanol production credit or the biodiesel production credit.

The Alternative Fuels Association (AFA) reports that one ethanol production facility currently operates in Indiana with a capacity of 102 million gallons per year. The AFA also reports that two facilities are currently under construction in Indiana, each with a 40 million gallon annual capacity. The National Biodiesel Board (NBB) reports that there are currently 45 active biodiesel production plants operating in the U.S. and 53 additional production plants proposed, including two in Indiana. The NBB reports that dedicated biodiesel plants in the U.S. have a total capacity of 60 to 80 million gallons per year, and that an additional 200 million gallons of capacity are available from non-dedicated facilities operated by oleochemical producers. The NBB also reports that a total of 59 biodiesel retailers and 41 biodiesel distributors currently operate in Indiana.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Economic Development Corporation; Air Pollution Control Board.

Local Agencies Affected:

Information Sources: Gretchen White, Indiana Economic Development Corporation, (317) 234-3997

Fiscal Analyst: Jim Landers, 317-232-9869.